

General Information Letter: The compensation of a nonresident officer of the Public Health Service is exempt from Illinois income tax under the Soldiers' and Sailors' Civil Relief Act of 1940.

February 17, 2000

Dear:

This is in response to your email inquiry dated February 17, 2000, in which you request a letter ruling. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

I am anxious to get this issue resolved and would appreciate any guidance that you could provide me. My situation is as follows:

I am a LT on active duty with the Public Health Service. I moved to Chicago in March 1998 after I was transferred from Philadelphia to our Chicago office under Official Personnel Orders from the PHS. My Home of Record is Pennsylvania, and my W-2 form indicates PA xxxxxxxxxxxx under the state ID #. Hence, I am a legal resident of PA (driver's license, registered to vote etc.). My pay comes from the Dept of Health and Human Services.

I have spoken with many different people from my office and yours. I also spoke with a lawyer from Great Lakes Navy Training Center. He stated that I AM covered by the Soldiers' and Sailors' Civil Relief Act which protects me from having to pay taxes in other states besides my state of legal residence!!

I have documentation to support all of my claims above if needed.

Response

42 U.S.C. Section 213(e) provides that an active-duty officer of the Public Health Service is deemed to be an active-duty member of the Armed Forces for purposes of the Soldiers' and Sailors' Civil Relief Act of 1940. Under that Act, an active-duty member of the Armed Forces who is not a resident of Illinois cannot be taxed on his or her military salary, even if he or she is living in Illinois. See 50 App. U.S.C. Section 574.

Accordingly, if you are a resident of Pennsylvania, you are not subject to Illinois income tax on the compensation you receive for serving in the Public Health Service.

In order to obtain a refund of Illinois income taxes paid with respect to your compensation, you will need to file a Form IL-1040-X amended income tax return, and attach a Schedule NR to show the amount of income taxable by Illinois. You should also attach a copy of this letter and of the W-2 showing your Pennsylvania residency and the amount of compensation you received from the Public Health Service to the amended return.

IT 00-0015-GIL
February 17, 2000
Page 2

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Paul S. Caselton
Deputy Chief Counsel -- Income Tax